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SENATE BILL 681

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joseph J. Carraro

AN ACT

RELATING TO PUBLIC EDUCATION; REQUIRING READING PROFICIENCY
PRIOR TO PROMOTION TO FOURTH GRADE; REQUIRING SCHOOL DISTRICTS
TO USE THE DISTRIBUTION FOR A STUDENT FAILING TO READ
PROFICIENTLY BY THE END OF THE THIRD GRADE FOR READING
ENHANCEMENT DESIGNED TO TEACH THE STUDENT TO READ PROFICIENTLY;
REQUIRING READING PROFICIENCY INFORMATION IN ACCOUNTABILITY
REPORT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-1-6 NMSA 1978 (being Laws 1989,
Chapter 308, Section 1, as amended) is amended to read:

"22-1-6. ANNUAL SCHOOL DISTRICT ACCOUNTABILITY REPORT
REQUIRED- - READING PROFICIENCY INFORMATION REQUIRED. - -

A. School districts are required to publish an
annual school district accountability report to provide

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1 district-wide data for the previous school year. The state
2 board shall establish the format for the accountability reports
3 and ensure that the relevant data is provided annually to
4 parents, students, educators, policymakers, legislators, the
5 governor and business and economic development organizations.

6 The department of education shall establish the following five
7 indices through which public school performance shall be
8 measured and reported to school districts:

9 (1) student achievement as measured by a
10 nationally norm-referenced test approved by the department of
11 education or through a performance-based instrument to measure
12 proficiency;

13 (2) school safety;

14 (3) the dropout rate;

15 (4) attendance; and

16 (5) parent and community involvement.

17 The department of education shall establish the
18 methodology for measuring each of the five indices.

19 B. Effective July 1, 1999, school districts shall
20 annually administer a nationally norm-referenced test or a
21 standards-based assessment to all students enrolled in a public
22 school in grades three through nine. Only students with
23 disabilities deemed incapable of taking the test as determined
24 on their individual educational programs shall be exempted from
25 this requirement. Students who have been assessed as non-

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1 English or limited English proficient using state-approved
2 language assessments and meeting required thresholds shall be
3 exempted from this test and provided an alternative norm-
4 referenced or standards-based assessment in their primary
5 language. School districts shall report the following to the
6 department of education:

7 (1) the results of the norm-referenced test or
8 standards-based assessment;

9 (2) the number of enrolled students who did
10 not take the test, the school in which they are enrolled and
11 the reason for the exemption from the test; and

12 (3) separately and as part of the aggregate
13 report, the results of assessments of students enrolled in
14 special education class A, B, C and D programs who took the
15 test and the school in which they are enrolled, except in cases
16 where the number of students being reported is less than ten.

17 C. School districts shall set two-, four- and six-
18 year benchmarks in each of the five indices for each public
19 school. Local school boards may establish additional indices,
20 if reviewed by the department of education, through which to
21 measure the school district's performance in other areas.

22 D. The annual accountability report shall also
23 include the results of a survey of parents' views of the
24 quality of their children's school. The survey shall be
25 conducted each year in time to include the results in the

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1 annual accountability report. The survey shall compile the
2 results of a written questionnaire that shall be sent home with
3 the students to be given to their parents. The survey may be
4 completed anonymously. The survey shall be no more than one
5 page, shall be clearly and concisely written and shall include
6 not more than twenty questions that shall be answered with
7 options of a simple sliding scale ranging from "strongly agree"
8 to "strongly disagree" and shall include the optional response
9 "don't know". The survey shall also include a request for
10 optional written comments, which may be written on the back of
11 the questionnaire form. The questionnaire shall include
12 questions in the following areas:

- 13 (1) parent-teacher-school relationship and
14 communication;
- 15 (2) quality of educational and extracurricular
16 programs;
- 17 (3) instructional practices and techniques;
- 18 (4) resources;
- 19 (5) school personnel, including the school
20 principal; and
- 21 (6) parents' view of teaching staff
22 expectations for the students.

23 The state board shall develop no more than ten of the
24 questions, which shall be reviewed by the legislative education
25 study committee prior to implementation. No more than five

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1 questions shall be developed by the local school board and no
2 more than five questions shall be developed by the staffs of
3 each individual school site; provided that at least half of
4 those questions shall be developed by teachers rather than
5 administrators, in order to gather information that is specific
6 to the particular community surveyed. The questionnaires shall
7 indicate the public school site and shall be tabulated by the
8 department of education within thirty days of receipt and shall
9 be returned to the respective schools to be disseminated to all
10 parents.

11 E. The annual accountability report shall also
12 include a report of all federal funds distributed directly to
13 the school district or received by the district from the
14 department of education. For each distribution, the purpose
15 for which the money was received shall be stated with a
16 detailed accounting of the purposes for which the funds were
17 expended.

18 F. The annual accountability report for each school
19 district shall be adopted by the local school board, may be
20 published no later than November 15 of each year and may be
21 published at least once each school year in a newspaper of
22 general circulation in the county where the school district is
23 located. In publication, the report shall be titled "The
24 School District Report Card" and disseminated in accordance
25 with guidelines established by the state board to ensure

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1 effective communication with parents, students, educators,
2 local policymakers and business and community organizations.

3 G. The annual accountability report for each school
4 district shall include the number for the previous school year
5 of third grade students in the district that failed to read
6 proficiently.

7 [~~G.~~] H. The department of education shall create an
8 accountability data system through which data from each public
9 school and each school district may be compiled and reviewed.
10 The department of education shall provide the resources to
11 train school district personnel in the use of the
12 accountability data system.

13 [~~H.~~] I. The department of education shall verify
14 data submitted by the school districts.

15 [~~I.~~] J. The state board shall measure the
16 performance of every public school in New Mexico. Public
17 schools achieving the highest level of performance shall be
18 eligible for supplemental incentive funding. The state board
19 shall establish the corrective actions and interventions
20 necessary for public schools whose performance level is low.

21 [~~J.~~] K. The school district shall submit a copy of
22 its annual accountability report to the legislative finance
23 committee, the legislative education study committee and the
24 library of the legislative council service. "

25 Section 2. Section 22-2-8.6 NMSA 1978 (being Laws 1986,

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1 Chapter 33, Section 7, as amended) is amended to read:

2 "22-2-8.6. EDUCATIONAL CONTENT STANDARDS--REMIATION
3 PROGRAMS--PROMOTION POLICIES--READING PROFICIENCY BEFORE
4 PROMOTION--RESTRICTIONS. --

5 A. The state board shall identify educational
6 content standards as measured by the state assessment program
7 and establish performance levels of proficiency. Remediation
8 programs, academic improvement programs and promotion policies
9 shall be aligned with content standards and based on the
10 following:

- 11 (1) statewide assessment results;
- 12 (2) alternative school-district-determined
13 assessment results; and
- 14 (3) student performance in school.

15 B. Local school boards shall approve district-
16 developed remediation programs and academic improvement
17 programs to provide special instructional assistance to
18 students in grades one through eight who fail to attain a level
19 of proficiency established by the content standards. The cost
20 of remediation programs and academic improvement programs shall
21 be borne by the school district. Remediation programs and
22 academic improvement programs shall be incorporated into the
23 school district's educational plan for student success and
24 filed with the department of education.

25 C. The cost of summer and extended day remediation

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1 programs and academic improvement programs offered in grades
2 nine through twelve shall be borne by the parent or guardian;
3 however, where parents are determined to be indigent according
4 to guidelines established by the state board, the local school
5 board shall bear those costs.

6 D. Diagnosis of weaknesses identified by the
7 reading or writing performance assessment instrument
8 administered pursuant to Section 22-2-8.5 NMSA 1978 may serve
9 as criteria in assessing the need for remedial programs or
10 retention.

11 E. A student who fails to read proficiently by the
12 end of the third grade shall not be promoted to the fourth
13 grade until the student reads proficiently, except that the
14 provisions of this subsection shall not apply to a
15 developmentally disabled student learning to read in accordance
16 with a developmentally appropriate plan approved by a certified
17 school instructor.

18 [~~E.~~] E. A parent or guardian shall be notified no
19 later than the end of the second grading period that his child
20 is failing to attain appropriate grade level proficiency in
21 content standards, and a conference consisting of the parent or
22 guardian and the teacher shall be held to discuss possible
23 remediation programs available to assist the student in
24 attaining the required level of proficiency established by the
25 content standards. Specific academic deficiencies and

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1 remediation strategies shall be explained to the student's
2 parent or guardian and a written plan developed containing
3 timelines, academic expectations and the measurements to be
4 used to verify that a student has overcome his academic
5 deficiencies. Remediation programs and academic improvement
6 programs include tutoring, extended day or week programs,
7 summer programs and other research-based models for student
8 improvement.

9 ~~[F.]~~ G. Except as provided in Subsection E of this
10 section, at the end of grades one through seven, three options
11 are available, dependent on a student's attainment of the
12 required level of proficiency established by the content
13 standards:

14 (1) the student has attained the level of
15 proficiency required by the content standards and shall enter
16 the next higher grade;

17 (2) the student has not attained the required
18 level of proficiency and shall participate in the required
19 level of remediation. Upon certification by the school
20 district that the student has successfully overcome his areas
21 of deficiency, he shall enter the next higher grade; or

22 (3) the student has not attained the level of
23 proficiency required by the content standards upon completion
24 of the prescribed remediation program and upon the
25 recommendation of the certified school instructor and school

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1 principal shall either be:

2 (a) retained in the same grade for no
3 more than one school year with an academic improvement plan
4 developed by the student assistance team in order to attain
5 proficiency of content standards, at which time the student
6 shall enter the next higher grade; or

7 (b) promoted to the next grade if the
8 parent or guardian refuses to allow his child to be retained
9 pursuant to Subparagraph (a) of this paragraph. In this case,
10 the parent or guardian shall sign a waiver indicating his
11 desire that the student be promoted to the next higher grade
12 with an academic improvement plan designed to address specific
13 academic deficiencies. The academic improvement plan shall be
14 developed by the student assistance team outlining timelines
15 and monitoring activities to ensure progress toward overcoming
16 those academic deficiencies. Students failing to attain
17 proficiency of content standards at the end of that year shall
18 then be retained in the same grade for no more than one year in
19 order to have additional time to master the required content
20 standards.

21 [~~G.~~] H. At the end of the eighth grade, a student
22 who fails to attain proficiency of content standards shall be
23 retained in the eighth grade for no more than one school year
24 in order to attain proficiency of content standards or if the
25 student assistance team determines that retention of the

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1 student in the eighth grade will not assist the student
2 [~~attain~~] in attaining the appropriate level of academic
3 achievement and proficiency of standards, the team shall design
4 a high school graduation plan to meet the student's needs for
5 entry into the work force or a post-secondary educational
6 institution. If a student is retained in the eighth grade, the
7 student assistance team shall develop a specific academic
8 improvement plan that clearly delineates the student's academic
9 deficiencies and prescribes a specific remediation plan to
10 address those academic deficiencies.

11 [~~H.~~] I. A student who fails to attain proficiency
12 of content standards for two successive school years shall be
13 referred to the student assistance team for placement in an
14 alternative program designed by the school district.
15 Alternative program plans shall be filed with the department of
16 education.

17 [~~F.~~] J. Promotion and retention decisions affecting
18 a student enrolled in special education shall be made in
19 accordance with the provisions of the individual educational
20 plan established for that student.

21 [~~J.~~] K. For the purposes of this section:

22 (1) "academic improvement plan" means a
23 written document developed by the student assistance team that
24 describes the specific content standards required for a certain
25 grade level that a student has not achieved and that prescribes

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1 specific remediation programs such as summer school, extended
2 day or week school and tutoring;

3 (2) "alternative school-district-determined
4 assessment results" means the results obtained from student
5 assessments developed by a local school board and conducted at
6 an elementary grade level or middle school level;

7 (3) "educational plan for student success"
8 means a student-centered tool developed to define the role of
9 the academic improvement plan within the district that
10 addresses methods to improve a student's learning and success
11 in school and that identifies specific measures of a student's
12 progress;

13 (4) "statewide assessment results" means the
14 results obtained from the New Mexico achievement assessment
15 that is administered annually to grades three through nine
16 pursuant to state board rule; and

17 (5) "student assistance team" means a group
18 consisting of a student's:

- 19 (a) teacher;
- 20 (b) school counselor;
- 21 (c) school administrator; and
- 22 (d) parent or legal guardian."

23 Section 3. Section 22-2-8.9 NMSA 1978 (being Laws 2001,
24 Chapter 165, Section 1) is amended to read:

25 "22-2-8.9. READING ENHANCEMENT FOR PUBLIC SCHOOL STUDENTS

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1 NOT READING AT GRADE LEVEL-- DISTRIBUTION USED FOR READING
2 PROFICIENCY-- ACCOUNTABILITY DATA SYSTEM USED-- ACCOUNTABILITY
3 INFORMATION REQUIREMENT. --

4 A. A school district shall provide reading
5 enhancement in grades two through ten, designed to improve a
6 student's reading proficiency to his grade level.

7 B. Before the end of the school year, the reading
8 proficiency of all students in grades one through nine shall be
9 determined based upon a combination of state-mandated
10 assessments and local school or school district reading
11 assessments. A student who is determined not to be reading at
12 grade level shall be provided reading enhancement.

13 C. If, as provided in Section 22-2-8.6 NMSA 1978, a
14 student is not promoted to the fourth grade as a result of the
15 student's failure to read proficiently, the school district
16 that received the current year distribution for the student
17 shall use the entire amount calculated for the student's grade
18 placement for reading enhancement designed to teach the student
19 to read proficiently. The school district may contract for the
20 reading enhancement services with a public or private
21 organization offering a grade appropriate reading enhancement
22 program.

23 D. Each school district shall include in its annual
24 school district accountability report the number for the
25 previous school year of third grade students in the district

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1 that failed to read proficiently. The department of education
2 shall use its accountability data system as provided in Section
3 22-1-6 NMSA 1978 to compile and review the third grade
4 students' reading proficiency information from each public
5 school. "

6 Section 4. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 2003.

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